

1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111-39 substituted “and the term ‘early intervention services’ has the meaning given the term in section 1432 of this title.” for “and the term ‘qualified professional provider of early intervention services’ has the meaning specified in section 1472(2) of this title.”

2004—Subsec. (c). Pub. L. 108-446 substituted “sections 1401 and 1432” for “sections 1401(a)(1) and 1472(1)”.

1994—Subsec. (a). Pub. L. 103-382 substituted “title I” for “chapter 1 of title I”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

PART E—NEED ANALYSIS

CODIFICATION

This part was added as part F of title IV of Pub. L. 89-329 by Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454. The letter designation of this part was changed from “F” to “E” for codification purposes. See Codification note preceding section 1087a of this title.

§ 1087kk. Amount of need

Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts¹ 1 or 2 of part A of this subchapter) is equal to—

- (1) the cost of attendance of such student, minus
- (2) the expected family contribution for such student, minus
- (3) estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 (as defined in section 1087vv(j) of this title).

(Pub. L. 89-329, title IV, §471, as added Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102-325, title IV, §471(a), July 23, 1992, 106 Stat. 585; Pub. L. 105-244, title IV, §480(a), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105-244 substituted “or 2” for “or 4” in introductory provisions.

1992—Pub. L. 102-325 amended section generally. Prior to amendment, section read as follows: “Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 1 and 3 of part A of this subchapter) is equal to the cost of attendance of such student minus the expected family contribution for such student.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-244, title IV, §480A, Oct. 7, 1998, 112 Stat. 1732, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part [part F (§§471-480A) of title IV of Pub. L. 105-244, amending this section and sections 1087ll to 1087tt and 1087vv of this

title] are effective on the date of enactment of this Act [Oct. 7, 1998].

“(b) PROVISIONS EFFECTIVE FOR ACADEMIC YEAR 2000-2001, AND THEREAFTER.—The amendments made by sections 472, 473, 474, and 475 [amending sections 1087nn to 1087qq of this title] shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 [this part] for academic years beginning on or after July 1, 2000.”

EFFECTIVE DATE OF 1992 AMENDMENT

Section 471(b) of Pub. L. 102-325 provided that: “The changes made in part F of title IV of the Act [this part] by the amendment made by this section [amending sections 1087kk to 1087vv of this title] shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.”

EFFECTIVE DATE

Section 406(b)(1)-(3) of Pub. L. 99-498, as amended by Pub. L. 100-50, §22(e)(1), (3), June 3, 1987, 101 Stat. 361, provided that:

“(1) Except as provided in paragraphs (2) through (4)—

“(A) part F of title IV of the Act [this part] shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988-1989 and succeeding academic years; and

“(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982 [Pub. L. 97-301, see Short Title of 1982 Amendment note set out under section 1001 of this title].

“(2) With respect to an application filed after the date of enactment of this Act [Oct. 17, 1986] for a loan under part B of such title [part B of this subchapter] for any academic year preceding academic year 1988-1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].

“(3) For purposes of sections 413D(d)(2)(B) [now 413D(c)(2)(B)], 442(d)(2)(B) and 462(d)(2)(B) [20 U.S.C. 1070b-3(c)(2)(B), 42 U.S.C. 2752(d)(2)(B), 20 U.S.C. 1087bb(d)(2)(B)] for any academic year preceding academic year 1988-1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986-1987, adjusted to reflect changes in data.

“(4) Section 479B of the Act [20 U.S.C. 1087uu] (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment [Oct. 17, 1986].”

[References to subpart 2 of part A of title IV of Pub. L. 89-329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102-325, set out as a note under section 1070a-11 of this title.]

SPECIAL STUDY OF SIMPLIFICATION OF NEED ANALYSIS AND APPLICATION FOR TITLE IV AID

Pub. L. 108-199, div. E, title III, §305, Jan. 23, 2004, 118 Stat. 263, provided that:

“(a) STUDY REQUIRED.—The Advisory Committee on Student Financial Assistance established by section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098), hereafter in this section referred to as ‘the Advisory Committee’, shall conduct a thorough study of the feasibility of simplifying the need analysis methodology for all Federal student financial assistance programs and the process of applying for such assistance.

“(b) REQUIRED SUBJECTS OF STUDY.—In performing the study, the Advisory Committee shall, at a minimum, examine the following:

¹ So in original. Probably should be “subpart”.

“(1) whether the methodology used to calculate the expected family contribution can be simplified without significant adverse effects on program intent, costs, integrity, delivery, and distribution of awards;

“(2) whether the number of data elements, and, accordingly, the number and complexity of questions asked of students and families, used to calculate the expected family contribution can be reduced without such adverse effects;

“(3) whether the procedures for determining such data elements, including determining and updating offsets and allowances, is the most efficient, effective, and fair means to determine a family’s available income and assets;

“(4) whether the methodology used to calculate the expected family contribution, specifically the consideration of income earned by a dependent student and its effect on Pell grant eligibility, is an effective and fair means to determine a family’s available income and a student’s need;

“(5) whether the nature and timing of the application required in section 483 (a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)(1)), eligibility and award determination, financial aid processing, and funds delivery can be streamlined further for students and families, institutions, and States;

“(6) whether it is feasible to allow students to complete only those limited sections of the financial aid application that apply to their specific circumstances and the State in which they reside;

“(7) whether a widely disseminated printed form, or the use of an Internet or other electronic means, can be developed to notify individuals of an estimation of their approximate eligibility for grant, work-study, and loan assistance upon completion and verification of the simplified application form;

“(8) whether information provided on other Federal forms (such as the form applying for supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], the form for applying for food stamps under the Food Stamp Act of 1977 [now the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq.], and the schedule for applying for the earned income tax credit under section 32 of the Internal Revenue Code of 1986 [26 U.S.C. 32]) that are designed to determine eligibility for various Federal need-based assistance programs could be used to qualify potential students for the simplified needs test; and

“(9) whether any proposed changes to data elements collected, in addition to those used to calculate expected family contribution, or any proposed changes to the form’s design or the process of applying for aid, may have adverse effects on program costs, integrity, delivery, or distribution of awards, as well as, application development or application processing.

“(c) **ADDITIONAL CONSIDERATIONS.**—In conducting the feasibility study, the Advisory Committee’s primary objective under this subsection shall be simplifying the financial aid application forms and process and obtaining a substantial reduction in the number of required data items. In carrying out that objective, the Advisory Committee shall pay special attention to the needs of low-income and moderate-income students and families.

“(d) **CONSULTATION.**—

“(1) **IN GENERAL.**—The Advisory Committee shall consult with a broad range of interested parties in higher education, including parents and students, high school guidance counselors, financial aid and other campus administrators, appropriate State administrators, administrators of intervention and outreach programs, and appropriate officials from the Department of Education.

“(2) **FORMS DESIGN EXPERT.**—With the goal of making significant changes to the form to make the questions more easily understandable, the Advisory Committee shall consult a forms design expert to ensure that its recommendations for revision of the application form would assist in making the form easily

readable and understood by parents, students, and other members of the public.

“(3) **CONGRESSIONAL CONSULTATION.**—The Advisory Committee shall consult on a regular basis with the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate in carrying out the feasibility study required by this subsection.

“(4) **DEPARTMENTAL CONSULTATION.**—The Secretary of Education shall provide such assistance to the Advisory Committee as is requested and practicable in conducting the study required by this subsection.

“(e) **REPORTS.**—

“(1) **INTERIM REPORT.**—The Advisory Committee shall, not later than 6 months after the date of enactment of this Act [Jan. 23, 2004], prepare and submit an interim report containing any such legislative changes as the Advisory Committee recommends to reform and simplify the needs analysis under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) and forms and other requirements under such title to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Secretary of Education.

“(2) **FINAL REPORT.**—The Advisory Committee shall, not later than 1 year after the date of enactment of this Act, prepare and submit a full final report on the study, including recommendations for regulatory and administrative changes required by this section, to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Secretary of Education.

“(f) **IMPLEMENTATION.**—The Secretary of Education shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate and shall subsequently initiate a redesign of the form required by section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090). Such redesign shall include the testing of alternative simplified versions of the free Federal form. The Secretary shall keep the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate fully and currently informed on the progress of these efforts.

“(g) **POSTPONEMENT OF TAX TABLE UPDATE PENDING REPORT AND IMPLEMENTATION.**—The Secretary of Education shall not implement or enforce for the award year 2004–2005 the annual update to the allowances for State and other taxes in the tables used in the Federal needs analysis methodology, as prescribed by the Secretary on May 30, 2003 (68 Fed. Reg. 32473).”

§ 1087II. Cost of attendance

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, the term “cost of attendance” means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer, for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance determined by the institution for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

(C) for students who live in housing located on a military base or for which a basic allowance is provided under section 403(b) of title 37, shall be an allowance based on the expenses reasonably incurred by such students for board but not for room; and

(D) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board;

(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

(A) books, supplies, and transportation (as determined by the institution);

(B) dependent care expenses (determined in accordance with paragraph (8)); and

(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs;

(11) for a student engaged in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution);

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be; and

(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one-time cost of obtaining the first professional credentials (as determined by the institution).

(Pub. L. 89-329, title IV, § 472, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 585; Pub. L. 103-208, § 2(g)(1), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105-244, title IV, § 471, Oct. 7, 1998, 112 Stat. 1729; Pub. L. 109-171, title VIII, § 8016, Feb. 8, 2006, 120 Stat. 172; Pub. L. 110-315, title IV, § 471(a), Aug. 14, 2008, 122 Stat. 3269.)

AMENDMENTS

2008—Par. (3)(C), (D). Pub. L. 110-315 added subpar. (C) and redesignated former subpar. (C) as (D).

2006—Par. (4). Pub. L. 109-171, § 8016(1), added par. (4) and struck out former par. (4), which read as follows: “for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));”.

Par. (13). Pub. L. 109-171, § 8016(2)–(4), added par. (13). 1998—Par. (2). Pub. L. 105-244, § 471(1), inserted “, including a reasonable allowance for the documented rental or purchase of a personal computer,” after “personal expenses”.

Par. (3)(A). Pub. L. 105-244, § 471(2)(A), substituted “determined by the institution” for “of not less than \$1,500”.

Par. (3)(C). Pub. L. 105-244, § 471(2)(B), struck out “, except that the amount may not be less than \$2,500” after “room and board”.

Par. (10). Pub. L. 105-244, § 471(3), substituted a semicolon for “, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;”.

Par. (11). Pub. L. 105-244, § 471(4), substituted “engaged” for “placed”.

1993—Par. (12). Pub. L. 103-208 added par. (12).

1992—Pub. L. 102-325 amended section generally, revising and restating as pars. (1) to (11) provisions formerly contained in pars. (1) to (9).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, § 471(b), Aug. 14, 2008, 122 Stat. 3269, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

§ 1087mm. Family contribution**(a) In general**

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, other than subpart 2 of part A of this subchapter, and except as provided in subsection (b), the term “family contribution” with respect to any student means the amount which the student and the student’s family may be reasonably expected to contribute toward the student’s postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(b) Special rule**(1) In general**

Notwithstanding any other provision of this subchapter and part C of subchapter I of chapter 34 of title 42, the family contribution of each student described in paragraph (2) shall be deemed to be zero for the academic year for which the determination is made.

(2) Applicability

Paragraph (1) shall apply to any dependent or independent student with respect to determinations of need for academic year 2009-2010 and succeeding academic years—

(A) who is eligible to receive a Federal Pell Grant for the academic year for which the determination is made;

(B) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

(C) who, at the time of the parent or guardian’s death, was—

(i) less than 24 years of age; or

(ii) enrolled at an institution of higher education on a part-time or full-time basis.

(3) Information

Notwithstanding any other provision of law, the Secretary of Veterans Affairs and the Secretary of Defense, as appropriate, shall provide the Secretary of Education with information necessary to determine which students meet the requirements of paragraph (2).

(Pub. L. 89-329, title IV, §473, as added Pub. L. 99-498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1455; amended Pub. L. 102-325, title IV, §471(a),

July 23, 1992, 106 Stat. 586; Pub. L. 105-244, title IV, §480(b), Oct. 7, 1998, 112 Stat. 1732; Pub. L. 111-39, title IV, §406(a)(1), July 1, 2009, 123 Stat. 1948.)

AMENDMENTS

2009—Pub. L. 111-39 designated existing provisions as subsec. (a), inserted heading, substituted “For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, other than subpart 2 of part A of this subchapter, and except as provided in subsection (b),” for “For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subpart 2 of part A of this subchapter,” and added subsec. (b).

1998—Pub. L. 105-244 substituted “subpart 2” for “subpart 4”.

1992—Pub. L. 102-325 amended section generally. Prior to amendment, section read as follows: “For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subparts 1 and 3 of part A of this subchapter, the term ‘family contribution’ with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-39, title IV, §406(b), July 1, 2009, 123 Stat. 1950, provided that: “The amendments made by—

“(1) paragraph (1) of subsection (a) [amending this section] shall take effect on July 1, 2009; and

“(2) paragraph (4) of such subsection [amending section 1087ss of this title] shall be effective as if enacted as part of the amendments in section 602(a) of the College Cost Reduction and Access Act (Public Law 110-84), and shall take effect on July 1, 2009.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

§ 1087nn. Determination of expected family contribution; data elements**(a) General rule for determination of expected family contribution**

The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 1087oo of this title;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 1087pp of this title; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 1087qq of this title.

(b) Data elements

The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student’s spouse, or (B) the student and the student’s parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of title 26.

(Pub. L. 89-329, title IV, § 474, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100-369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 105-244, title IV, § 472, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105-244 inserted “, excluding the student's parents,” after “family of the student”.

1992—Pub. L. 102-325 substituted “Determination of expected family contribution; data elements” for “Data elements used in determining expected family contribution” in section catchline and amended text generally, adding subsec. (a), designating existing provisions as subsec. (b) and inserting heading, adding the age of the older parent, in the case of a dependent student, and the student as a data element and striking out consideration of any unusual medical and dental expenses and consideration of the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid as data elements.

1988—Par. (8). Pub. L. 100-369 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

§ 1087oo. Family contribution for dependent students

(a) Computation of expected family contribution

For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b) of this section);

(2) the student contribution from available income (determined in accordance with subsection (g) of this section); and

(3) the student contribution from assets (determined in accordance with subsection (h) of this section).

(b) Parents' contribution from adjusted available income

The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c) of this section); and

(B) the parents' contribution from assets (determined in accordance with subsection (d) of this section);

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e) of this section; and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) Parents' available income

(1) In general

The parents' available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken by the parents under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiply-

ing total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than \$15,000 or	\$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8

Income Protection Allowance

Family Size (including student)	Number in College					
	1	2	3	4	5	For each additional subtract:
2	\$10,520	\$8,720				\$1,790
3	13,100	11,310	\$9,510			
4	16,180	14,380	12,590	\$10,790		
5	19,090	17,290	15,500	13,700	\$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of \$2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of \$2,500 or 35 percent of such parent's earned income.

Percentages for Computation of State and Other Tax Allowance—Continued

If parents' State or territory of residence is—	And parents' total income is—	
	less than \$15,000 or	\$15,000 or more
	then the percentage is—	
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

(d) Parents' contribution from assets

(1) In general

The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Parental net worth

The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as “NW”), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm	
If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than \$1	\$0
\$1–\$75,000	40 percent of NW
\$75,001–\$225,000	\$30,000 plus 50 percent of NW over \$75,000
\$225,001–\$375,000	\$105,000 plus 60 percent of NW over \$225,000
\$375,001 or more	\$195,000 plus 100 percent of NW over \$375,000

(3) Education savings and asset protection allowance

The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
then the allowance is—		
25 or less	\$ 0	\$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500

Education Savings and Asset Protection Allowances for Families and Students—Continued

If the age of the oldest parent is—	And there are	
	two parents	one parent
then the allowance is—		
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(e) Assessment schedule

The adjusted available income (as determined under subsection (b)(1) of this section and hereafter in this subsection referred to as “AAI”) is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Parents’ Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than –\$3,409	–\$750
–\$3,409 to \$9,400	22% of AAI
\$9,401 to \$11,800	\$2,068 + 25% of AAI over \$9,400
\$11,801 to \$14,200	\$2,668 + 29% of AAI over \$11,800
\$14,201 to \$16,600	\$3,364 + 34% of AAI over \$14,200
\$16,601 to \$19,000	\$4,180 + 40% of AAI over \$16,600
\$19,001 or more	\$5,140 + 47% of AAI over \$19,000

(f) Computations in case of separation, divorce, remarriage, or death

(1) Divorced or separated parents

Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student’s support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) Death of a parent

Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) Remarried parents

If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, the income of that parent’s

spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the step-parent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) Student contribution from available income

(1) In general

The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 1087vv of this title); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) Adjustment to student income

The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4);

(D) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

(i) for academic year 2009–2010, \$3,750;

(ii) for academic year 2010–2011, \$4,500;

(iii) for academic year 2011–2012, \$5,250;

and

(iv) for academic year 2012–2013, \$6,000;

(E) the amount of any tax credit taken by the student under section 25A of title 26; and

(F) an allowance for parents' negative available income, determined in accordance with paragraph (6).

(3) Allowance for State and other income taxes

The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3

Percentages for Computation of State and Other Tax Allowance—Continued

If the students' State or territory of residence is—	The percentage is—
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(4) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) Assessment of available income

The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(6) Allowance for parents' negative available income

The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of subsection (c)(1) of this section exceeds the sum of the parents' total income (as defined in section 1087vv of this title) and the parents' contribution from assets (as determined in accordance with subsection (d) of this section).

(h) Student contribution from assets

The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 20 percent, except that the result shall not be less than zero.

(i) Adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter

For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b) of this section) is determined as follows for purposes other than subpart 2 of part A of this subchapter:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1) of this section) is increased by the difference between the income protection allowance (determined in accordance with sub-

section (c)(4) of this section) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) of this section and adjusted according to subsection (b)(3) of this section to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(j) Adjustments to student's contribution for enrollment periods of less than nine months

For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g) of this section) is determined, for purposes other than subpart 2 of part A of this subchapter, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.

(Pub. L. 89-329, title IV, § 475, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100-50, § 14(1)-(12), June 3, 1987, 101 Stat. 349, 350; Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 103-208, § 2(g)(2)-(5), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105-78, title VI, § 609(g), Nov. 13, 1997, 111 Stat. 1523; Pub. L. 105-244, title IV, § 473, Oct. 7, 1998, 112 Stat. 1729; Pub. L. 109-171, title VIII, § 8017(a)(1), Feb. 8, 2006, 120 Stat. 173; Pub. L. 110-84, title VI, § 601(a), Sept. 27, 2007, 121 Stat. 801; Pub. L. 111-39, title IV, § 406(a)(2), July 1, 2009, 123 Stat. 1948.)

AMENDMENTS

2009—Subsec. (c)(5)(B). Pub. L. 111-39 made technical amendment to reference in original act which appears in text as reference to section 2 of title 26.

2007—Subsec. (g)(2)(D). Pub. L. 110-84 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "an income protection allowance of \$3,000 (or a successor amount prescribed by the Secretary under section 1087rr of this title);".

2006—Subsec. (g)(2)(D). Pub. L. 109-171, § 8017(a)(1)(A), substituted "\$3,000" for "\$2,200".

Subsec. (h). Pub. L. 109-171, § 8017(a)(1)(B), substituted "20" for "35".

1998—Subsec. (b)(3). Pub. L. 105-244, § 473(a), which directed insertion of ", excluding the student's parents," after "number of family members", was executed by making the insertion after "number of the family members" to reflect the probable intent of Congress.

Subsec. (g)(2)(D). Pub. L. 105-244, § 473(b)(1)(A), substituted "\$2,200 (or a successor amount prescribed by the Secretary under section 1087rr of this title);" for "\$1,750; and".

Subsec. (g)(2)(F). Pub. L. 105-244, § 473(b)(1)(B), (C), added subpar. (F).

Subsec. (g)(6). Pub. L. 105-244, § 473(b)(2), added par. (6).

Subsec. (j). Pub. L. 105-244, § 473(c), added subsec. (j).

1997—Subsec. (c)(1)(F). Pub. L. 105-78, § 609(g)(1), added subpar. (F).

Subsec. (g)(2)(E). Pub. L. 105-78, § 609(g)(2), added subpar. (E).

1993—Subsec. (c)(4). Pub. L. 103-208, § 2(g)(2), substituted "\$9,510" for "9,510" in table.

Subsec. (f)(3). Pub. L. 103-208, § 2(g)(3), in introductory provisions, substituted "If a parent" for "Income in the case of a parent", "(1) of this subsection, or if a parent" for "(1) of this subsection, or a parent", and "the income" for "is determined as follows: The income".

Subsec. (g)(1)(B). Pub. L. 103-208, § 2(g)(4), inserted closing parenthesis after "paragraph (2)".

Subsec. (g)(3). Pub. L. 103-208, § 2(g)(5), in table added last item relating to Other.

1992—Pub. L. 102-325 amended section generally, making minor changes in subsecs. (a) to (c) and (e) to (g), in subsec. (d) substituting provisions relating to parents' contribution from assets for provisions relating to parents' income supplemental amount from assets, in subsec. (h) substituting provisions relating to student contribution from assets for provisions relating to student and spouse income supplemental amount from assets, and in subsec. (i) substituting provisions relating to adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter for provisions relating to adjustments for enrollment periods other than 9 months.

1987—Subsec. (c)(2), (4). Pub. L. 100-50, § 14(1), substituted "section 1087rr of this title" for "section 1087ss of this title".

Subsec. (c)(7). Pub. L. 100-50, § 14(2), struck out "National" before "Center".

Subsec. (d)(2)(B). Pub. L. 100-50, § 14(3), substituted "displaced homemaker" for "dislocated homemaker".

Subsec. (d)(2)(C). Pub. L. 100-50, § 14(1), substituted "section 1087rr of this title" for "section 1087ss of this title".

Pub. L. 100-50, § 14(4), added table after subpar. (C) and struck out former table which read as follows:

"Adjusted Net Worth of a Business or Farm"	
If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than \$1	\$0
\$1-\$65,000	40 percent of NW
\$65,001-\$195,000	\$26,000 plus 50 percent of NW over \$65,000
\$195,001-\$325,000	\$91,000 plus 60 percent of NW over \$195,000
\$325,001 or more	\$169,000 plus 100 percent of NW over \$325,000".

Subsec. (d)(4)(B). Pub. L. 100-50, § 14(5), substituted "\$15,999" for "\$15,000".

Subsec. (d)(4)(C). Pub. L. 100-50, § 14(6), substituted "\$16,000" for "\$15,000" in three places.

Subsec. (d)(4)(D). Pub. L. 100-50, § 14(7), substituted "income is less than zero" for "income is equal to or less than zero".

Subsec. (e). Pub. L. 100-50, § 14(8), inserted a minus sign before "\$3,409" in two places in table.

Subsec. (g)(1)(C). Pub. L. 100-50, § 14(9), substituted "paragraph (2)" for "paragraph (3)".

Subsec. (g)(3). Pub. L. 100-50, § 14(10), inserted "(or a successor table prescribed by the Secretary under section 1087rr of this title)" after "following table".

Subsec. (h). Pub. L. 100-50, § 14(11), added subsec. (h) and struck out former subsec. (h) which read as follows: "The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

"(1) the current balance of checking and savings accounts and cash on hand; and

"(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 1087vv(e) of this title)."

Subsec. (i). Pub. L. 100-50, §14(12), added subsec. (i).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title VI, §601(e), Sept. 27, 2007, 121 Stat. 804, provided that: “The amendments made by this section [amending this section and sections 1087pp, 1087qq, and 1087rr of this title] shall be effective on July 1, 2009.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

Pub. L. 109-171, title VIII, §8017(a)(2), Feb. 8, 2006, 120 Stat. 173, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

§ 1087pp. Family contribution for independent students without dependents other than a spouse

(a) Computation of expected family contribution

For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family’s contribution from available income (determined in accordance with subsection (b) of this section); and

(B) the family’s contribution from assets (determined in accordance with subsection (c) of this section);

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in ac-

cordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(3) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (2) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family’s contribution from available income

(1) In general

The family’s contribution from income is determined by—

(A) deducting from total income (as defined in section 1087vv of this title)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

(I) for single or separated students, or married students where both are enrolled pursuant to subsection (a)(2)—

(aa) for academic year 2009–2010, \$7,000;

(bb) for academic year 2010–2011, \$7,780;

(cc) for academic year 2011–2012, \$8,550; and

(dd) for academic year 2012–2013, \$9,330; and

(II) for married students where 1 is enrolled pursuant to subsection (a)(2)—

(aa) for academic year 2009–2010, \$11,220;

(bb) for academic year 2010–2011, \$12,460;

(cc) for academic year 2011–2012, \$13,710; and

(dd) for academic year 2012–2013, \$14,960;

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(vi) the amount of any tax credit taken under section 25A of title 26; and

(B) assessing such available income in accordance with paragraph (5).

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Employment expenses allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of \$2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student is not married, the employment expense allowance is zero.

(5) Assessment of available income

The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) Family contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) Family's net worth

The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than \$1	\$0
\$1–\$75,000	40 percent of NW
\$75,001–\$225,000	\$30,000 plus 50 percent of NW over \$75,000
\$225,001–\$375,000	\$105,000 plus 60 percent of NW over \$225,000
\$375,001 or more	\$195,000 plus 100 percent of NW over \$375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
then the allowance is—		
25 or less	\$ 0	\$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200

Asset Protection Allowances for Families and
Students—Continued

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 20 percent.

(d) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

(Pub. L. 89–329, title IV, §476, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1463; amended Pub. L. 100–50, §14(1), (3), (4), (13)–(17), June 3, 1987, 101 Stat. 349, 351; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 594; Pub. L. 103–208, §2(g)(6), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, §609(h), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, §474, Oct. 7, 1998, 112 Stat. 1730; Pub. L. 109–171, title VIII, §8017(b)(1), Feb. 8, 2006, 120 Stat. 173; Pub. L. 110–84, title VI, §601(b), Sept. 27, 2007, 121 Stat. 801.)

AMENDMENTS

2007—Subsec. (b)(1)(A)(iv). Pub. L. 110–84 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

“(I) \$6,050 for single students;

“(II) \$6,050 for married students where both are enrolled pursuant to subsection (a)(2) of this section; and

“(III) \$9,700 for married students where one is enrolled pursuant to subsection (a)(2) of this section;”.

2006—Subsec. (b)(1)(A)(iv). Pub. L. 109–171, §8017(b)(1)(A), substituted “\$6,050” for “\$5,000” in subcls. (I) and (II) and “\$9,700” for “\$8,000” in subcl. (III).

Subsec. (c)(4). Pub. L. 109–171, §8017(b)(1)(B), substituted “20” for “35”.

1998—Subsec. (a)(3). Pub. L. 105–244, §474(a), added par. (3).

Subsec. (b)(1)(A)(iv). Pub. L. 105–244, §474(b)(1), in introductory provisions, substituted “allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—” for “allowance of—”.

Subsec. (b)(1)(A)(iv)(I), (II). Pub. L. 105–244, §474(b)(2), substituted “\$5,000” for “\$3,000”.

Subsec. (b)(1)(A)(iv)(III). Pub. L. 105–244, §474(b)(3), substituted “\$8,000” for “\$6,000”.

1997—Subsec. (b)(1)(A)(vi). Pub. L. 105–78 added cl. (vi).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students without dependents other than a spouse for provisions relating to family contribution for independent students without dependents (including a spouse).

1987—Subsec. (b)(1)(A), (B). Pub. L. 100–50, §14(13)(B), (C), substituted subpar. (A) and introductory provisions

of subpar. (B) for introductory provisions of former subpar. (A) which read as follows: “computing the student's available taxable income by deducting from the student's adjusted gross income—”. Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 100–50, §14(13)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 100–50, §14(15), which directed that subsec. (b)(1)(C) be amended by inserting “plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28”, was executed to subpar. (D) to reflect the probable intent of Congress and the intervening redesignation of subpar. (C) as (D) by section 14(13)(B) of Pub. L. 100–50.

Pub. L. 100–50, §14(13)(A), (B), redesignated subpar. (C) as (D) and substituted “subparagraph (C)” for “subparagraph (B)”.

Subsec. (b)(2). Pub. L. 100–50, §14(1), (14), substituted “total income” for “total taxable income” and “section 1087rr of this title” for “section 1087ss of this title”.

Subsec. (b)(4)(A). Pub. L. 100–50, §14(16)(A), substituted “\$8,600” for “\$8,900”.

Subsec. (b)(4)(B). Pub. L. 100–50, §14(16), substituted “\$8,600” for “\$8,900” in two places and “\$6,020” for “\$6,230”.

Subsec. (c)(1). Pub. L. 100–50, §14(17), substituted a semicolon for a period at end of subpar. (C) and inserted, after subpar. (C), provision that the student's income supplemental amount from assets not be less than zero.

Subsec. (c)(2)(B). Pub. L. 100–50, §14(3), substituted “displaced homemaker” for “dislocated homemaker”.

Subsec. (c)(2)(C). Pub. L. 100–50, §14(4), added table and struck out former table which read as follows:

“Adjusted Net Worth of a Business or Farm	
If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than \$1	\$0
\$1–\$65,000	40 percent of NW
\$65,001–\$195,000	\$26,000 plus 50 percent of NW over \$65,000
\$195,001–\$325,000	\$91,000 plus 60 percent of NW over \$195,000
\$325,001 or more	\$169,000 plus 100 percent of NW over \$325,000”.

Pub. L. 100–50, §14(1), substituted “section 1087rr of this title” for “section 1087ss of this title”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective July 1, 2009, see section 601(e) of Pub. L. 110–84, set out as a note under section 1087oo of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Pub. L. 109–171, title VIII, §8017(b)(2), Feb. 8, 2006, 120 Stat. 173, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of

Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

§ 1087qq. Family contribution for independent students with dependents other than a spouse

(a) Computation of expected family contribution

For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d) of this section;

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(4) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (3) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's available income

(1) In general

The family's available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than \$15,000	\$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the tables described in subparagraphs (A) through (D) (or a successor table prescribed by the Secretary under section 1087rr of this title).

(A) Academic year 2009–2010

For academic year 2009–2010, the income protection allowance is determined by the following table:

Income Protection Allowance						
Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	\$17,720	\$14,690				
3	22,060	19,050	\$16,020			
4	27,250	24,220	21,210	\$18,170		
5	32,150	29,120	26,100	23,070	\$20,060	
6	37,600	34,570	31,570	28,520	25,520	\$3,020
For each additional add:	4,240	4,240	4,240	4,240	4,240	

(B) Academic year 2010–2011

For academic year 2010–2011, the income protection allowance is determined by the following table:

Income Protection Allowance						
Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	\$19,690	\$16,330				
3	24,510	21,160	\$17,800			
4	30,280	26,910	23,560	\$20,190		
5	35,730	32,350	29,000	25,640	\$22,290	
6	41,780	38,410	35,080	31,690	28,350	\$3,350
For each additional add:	4,710	4,710	4,710	4,710	4,710	

(C) Academic year 2011–2012

For academic year 2011–2012, the income protection allowance is determined by the following table:

Income Protection Allowance						
Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	\$21,660	\$17,960				
3	26,960	23,280	\$19,580			
4	33,300	29,600	25,920	\$22,210		
5	39,300	35,590	31,900	28,200	\$24,520	
6	45,950	42,250	38,580	34,860	31,190	\$3,690
For each additional add:	5,180	5,180	5,180	5,180	5,180	

(D) Academic year 2012–2013

For academic year 2012–2013, the income protection allowance is determined by the following table:

Income Protection Allowance						
Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	\$23,630	\$19,590				
3	29,420	25,400	\$21,360			
4	36,330	32,300	28,280	\$24,230		
5	42,870	38,820	34,800	30,770	\$26,750	
6	50,130	46,100	42,090	38,030	34,020	\$4,020
For each additional add:	5,660	5,660	5,660	5,660	5,660	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of \$2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of \$2,500 or 35 percent of the student's earned income.

(c) Family's contribution from assets**(1) In general**

The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Family net worth

The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm	
If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than \$1	\$0
\$1–\$75,000	40 percent of NW
\$75,001–\$225,000	\$30,000 plus 50 percent of NW over \$75,000
\$225,001–\$375,000	\$105,000 plus 60 percent of NW over \$225,000
\$375,001 or more	\$195,000 plus 100 percent of NW over \$375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
then the allowance is—		
25 or less	\$ 0	\$0

Asset Protection Allowances for Families and Students—Continued

If the age of the student is—	And the student is	
	married	single
then the allowance is—		
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 7 percent.

(d) Assessment schedule

The adjusted available income (as determined under subsection (a)(1) of this section and hereafter referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Assessment From Adjusted Available Income (AAI)	
If AAI is—	Then the assessment is—
Less than –\$3,409	–\$750
–\$3,409 to \$9,400	22% of AAI
\$9,401 to \$11,800	\$2,068 + 25% of AAI over \$9,400
\$11,801 to \$14,200	\$2,668 + 29% of AAI over \$11,800
\$14,201 to \$16,600	\$3,364 + 34% of AAI over \$14,200
\$16,601 to \$19,000	\$4,180 + 40% of AAI over \$16,600
\$19,001 or more	\$5,140 + 47% of AAI over \$19,000

(e) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in de-

termining the family's available income or assets.

(Pub. L. 89–329, title IV, § 477, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1465; amended Pub. L. 100–50, § 14(1)–(6), (8), (18), (19), June 3, 1987, 101 Stat. 349–351; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 597; Pub. L. 103–208, § 2(g)(2), (7), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(i), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 475, Oct. 7, 1998, 112 Stat. 1730; Pub. L. 109–171, title VIII, § 8017(c)(1), Feb. 8, 2006, 120 Stat. 173; Pub. L. 110–84, title VI, § 601(c), Sept. 27, 2007, 121 Stat. 802; Pub. L. 111–39, title IV, § 406(a)(3), July 1, 2009, 123 Stat. 1948.)

AMENDMENTS

2009—Subsec. (b)(5)(B). Pub. L. 111–39 made technical amendment to reference in original act which appears in text as reference to section 2 of title 26.

2007—Subsec. (b)(4). Pub. L. 110–84 amended par. (4) generally. Prior to amendment, par. (4) consisted of a single table to be used to determine income protection allowances.

2006—Subsec. (c)(4). Pub. L. 109–171 substituted “7” for “12”.

1998—Subsec. (a)(4). Pub. L. 105–244 added par. (4).

1997—Subsec. (b)(1)(F). Pub. L. 105–78 added subpar. (F).

1993—Subsec. (b)(4). Pub. L. 103–208, § 2(g)(2), substituted “\$9,510” for “9,510” in table.

Subsec. (e). Pub. L. 103–208, § 2(g)(7), added subsec. (e). 1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students with dependents other than a spouse for provisions relating to family contribution for independent students with dependents (including a spouse).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, § 14(18), added subpar. (C).

Subsec. (b)(2). Pub. L. 100–50, § 14(1), substituted “section 1087rr of this title” for “section 1087ss of this title”.

Subsec. (b)(5)(A). Pub. L. 100–50, § 14(19), substituted “\$2,100” for “\$2,000”.

Subsec. (b)(7). Pub. L. 100–50, § 14(2), struck out “National” before “Center”.

Subsec. (c)(2)(B). Pub. L. 100–50, § 14(3), substituted “displaced homemaker” for “dislocated homemaker”.

Subsec. (c)(2)(C). Pub. L. 100–50, § 14(1), (4), substituted “section 1087rr of this title” for “section 1087ss of this title” in text, added table, and struck out former table which read as follows:

“Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than \$1	\$0
\$1–\$65,000	40 percent of NW
\$65,001–\$195,000	\$26,000 plus 50 percent of NW over \$65,000
\$195,001–\$325,000	\$91,000 plus 60 percent of NW over \$195,000
\$325,001 or more	\$169,000 plus 100 percent of NW over \$325,000”.

Subsec. (c)(4)(B). Pub. L. 100–50, § 14(5), substituted “\$15,999” for “\$15,000”.

Subsec. (c)(4)(C). Pub. L. 100–50, § 14(6), substituted “\$16,000” for “\$15,000” in three places.

Subsec. (d). Pub. L. 100–50, § 14(1), (8), substituted “section 1087rr of this title” for “section 1087ss of this title” in text and inserted a minus sign before “\$3,409” in two places in table.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14,

2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective July 1, 2009, see section 601(e) of Pub. L. 110–84, set out as a note under section 1087oo of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

Pub. L. 109–171, title VIII, § 8017(c)(2), Feb. 8, 2006, 120 Stat. 173, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087rr. Regulations; updated tables

(a) Authority to prescribe regulations restricted

(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 1089 of this title. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 1089 of this title updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) Income protection allowance**(1) Revised tables****(A) In general**

For each academic year after academic year 2008–2009, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 1087oo(c)(4) and 1087qq(b)(4) of this title, subject to subparagraphs (B) and (C).

(B) Table for independent students**(i) Academic years 2009–2010 through 2012–2013**

For each of the academic years 2009–2010 through 2012–2013, the Secretary shall not develop a revised table of income protection allowances under section 1087qq(b)(4) of this title and the table specified for such academic year under subparagraphs (A) through (D) of such section shall apply.

(ii) Other academic years

For each academic year after academic year 2012–2013, the Secretary shall develop the revised table of income protection allowances by increasing each of the dollar amounts contained in the table of income protection allowances under section 1087qq(b)(4)(D) of this title by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.

(C) Table for parents

For each academic year after academic year 2008–2009, the Secretary shall develop the revised table of income protection allowances under section 1087oo(c)(4) of this title by increasing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.

(2) Revised amounts

For each academic year after academic year 2007–2008, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 1087oo(g)(2)(D) and 1087pp(b)(1)(A)(iv) of this title. Such revised allowances shall be developed for each academic year after academic year 2012–2013, by increasing each of the dollar amounts contained in such section for academic year 2012–2013 by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.

(c) Adjusted net worth of a farm or business

For each award year after award year 1993–1994, the Secretary shall publish in the Fed-

eral Register a revised table of adjusted net worth of a farm or business for purposes of sections 1087oo(d)(2)(C), 1087pp(c)(2)(C), and 1087qq(c)(2)(C) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest \$5,000; and

(2) by adjusting the dollar amounts “\$30,000”, “\$105,000”, and “\$195,000” to reflect the changes made pursuant to paragraph (1).

(d) Education savings and asset protection allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 1087oo(d)(3), 1087pp(c)(3), and 1087qq(c)(3) of this title. Such revised table shall be developed by determining the present value cost, rounded to the nearest \$100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest \$100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) Assessment schedules and rates

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 1087oo(e) and 1087qq(d) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest \$100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) “Consumer Price Index” defined

As used in this section, the term “Consumer Price Index” means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) State and other tax allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 1087oo(c)(2), 1087oo(g)(3), 1087pp(b)(2), and 1087qq(b)(2) of this title. The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

(h) Employment expense allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 1087oo(c)(5), 1087pp(b)(4), and 1087qq(b)(5) of this title. Such revised table shall be developed by increasing the dollar amount specified in sections 1087oo(c)(5)(A), 1087oo(c)(5)(B), 1087pp(b)(4)(A), 1087qq(b)(5)(A), and 1087qq(b)(5)(B) of this title to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for food away from home, apparel, transportation, and household furnishings and operations for a two-worker versus one-worker family.

(Pub. L. 89–329, title IV, § 478, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1470; amended Pub. L. 100–50, § 14(20)–(22), June 3, 1987, 101 Stat. 351, 352; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 602; Pub. L. 103–208, § 2(g)(8), (9), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, § 476, Oct. 7, 1998, 112 Stat. 1730; Pub. L. 109–171, title VIII, § 8017(d), (e), Feb. 8, 2006, 120 Stat. 173, 174; Pub. L. 110–84, title VI, § 601(d), Sept. 27, 2007, 121 Stat. 803.)

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–84, § 601(d)(1), added par. (1) and struck out former par. (1). Prior to amendment, par. (1) required the Secretary to publish in the Federal Register, for each academic year after academic year 1993–1994, a revised table of income protection allowances for the purpose of sections 1087oo(c)(4) and 1087qq(b)(4) of this title.

Subsec. (b)(2). Pub. L. 110–84, § 601(d)(2), substituted “shall be developed for each academic year after academic year 2012–2013, by increasing each of the dollar amounts contained in such section for academic year 2012–2013 by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.” for “shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2006 and the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.”

2006—Subsec. (b)(1). Pub. L. 109–171, § 8017(d)(1), inserted at end “For the 2007–2008 academic year, the Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall increase the amounts contained in the table in section 1087qq(b)(4) of this title by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index (as determined under the preceding sentence) or 5 percent.”

Subsec. (b)(2). Pub. L. 109–171, § 8017(d)(2), substituted “2007–2008” for “2000–2001” and “2006” for “1999”.

Subsec. (h). Pub. L. 109–171, § 8017(e), struck out “1087pp(b)(4)(B),” after “1087pp(b)(4)(A),” and substituted “food away from home, apparel, transportation, and household furnishings and operations” for “meals away from home, apparel and upkeep, transportation, and housekeeping services”.

1998—Subsec. (b). Pub. L. 105–244 designated existing provisions as par. (1), inserted heading, and added par. (2).

1993—Subsec. (b). Pub. L. 103–208, § 2(g)(8)(A), substituted “1993–1994” for “1992–1993”.

Subsec. (c). Pub. L. 103–208, § 2(g)(8), substituted “1993–1994” for “1992–1993” in introductory provisions and inserted “December” before “1992” in par. (1).

Subsecs. (d), (e), (g). Pub. L. 103–208, § 2(g)(8)(A), substituted “1993–1994” for “1992–1993”.

Subsec. (h). Pub. L. 103–208, § 2(g)(8)(A), (9), substituted “1993–1994” for “1992–1993” and “Bureau of Labor Statistics” for “Bureau of Labor Standards”.

1992—Pub. L. 102–325 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly contained in subsecs. (a) to (f).

1987—Subsec. (c)(2). Pub. L. 100–50, § 14(21), substituted “\$24,000”, “\$84,000”, and “\$156,000” for “\$26,000”, “\$91,000”, and “\$169,000”.

Subsec. (d). Pub. L. 100–50, § 14(20), inserted “, rounded to the nearest \$100,” after “present value cost” and “of 40 and above” after “each age cohort” in second sentence and, after second sentence, inserted “For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest \$100.”

Subsec. (f). Pub. L. 100–50, § 14(22), substituted “Consumer Price Index for All Urban Consumers” for “Consumer Price Index for Wage Earners and Clerical Workers”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–84 effective July 1, 2009, see section 601(e) of Pub. L. 110–84, set out as a note under section 1087oo of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109–171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087ss. Simplified needs test**(a) Simplified application section****(1) In general**

The Secretary shall develop and use an easily identifiable simplified application section

as part of the common financial reporting form prescribed under section 1090(a) of this title for families described in subsections (b) and (c) of this section.

(2) Reduced data requirements

The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1) of this section, permit such family to submit only the data elements required under subsection (b)(2) of this section for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c) of this section, permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c) of this section.

(b) Simplified needs test

(1) Eligibility

An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents—

(I) file, or are eligible to file, a form described in paragraph (3);

(II) certify that the parents are not required to file a Federal income tax return;

(III) include at least one parent who is a dislocated worker; or

(IV) received, or the student received, benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than \$50,000; or

(B) in the case of an applicant who is an independent student—

(i) the student (and the student's spouse, if any)—

(I) files, or is eligible to file, a form described in paragraph (3);

(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return;

(III) is a dislocated worker or has a spouse who is a dislocated worker; or

(IV) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than \$50,000.

(2) Simplified test elements

The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in post-secondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 1087oo(c)(2) of this title for dependent students and in section 1087qq(b)(2) of this title for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 1087pp(b)(2) of this title for independent students without dependents other than a spouse.

(3) Qualifying forms

In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to title 26;

(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to title 26, except that such form shall be considered a qualifying form only if the student or family files such form in order to take a tax credit under section 25A of title 26, and would otherwise be eligible to file a form described in subparagraph (A); or

(C) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) Zero expected family contribution

The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents—

(i) file, or are eligible to file, a form described in subsection (b)(3);

(ii) certify that the parents are not required to file a Federal income tax return;

(iii) include at least one parent who is a dislocated worker; or

(iv) received, or the student received, benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(B) the sum of the adjusted gross income of the parents is less than or equal to \$23,000; or

(2) in the case of an independent student with dependents other than a spouse—

(A) the student (and the student's spouse, if any)—

(i) files, or is eligible to file, a form described in subsection (b)(3);

(ii) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return;

(iii) is a dislocated worker or has a spouse who is a dislocated worker; or

(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to \$23,000.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection. The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 1087rr(f) of this title.

(d) Definitions

In this section:

(1) Dislocated worker

The term “dislocated worker” has the meaning given the term in section 2801 of title 29.

(2) Means-tested Federal benefit program

The term “means-tested Federal benefit program” means a mandatory spending program of the Federal Government, other than a program under this subchapter and part C of subchapter I of chapter 34 of title 42, in which eligibility for the program’s benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

(A) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

(B) the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(C) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(D) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(E) the special supplemental nutrition program for women, infants, and children established by section 1786 of title 42; and

(F) other programs identified by the Secretary.

(Pub. L. 89–329, title IV, § 479, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, § 14(23)–(25), June 3, 1987, 101 Stat. 352; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–26, § 11, Apr. 9, 1991, 105 Stat. 129; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 604; Pub. L. 103–208, § 2(g)(10)–(15), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, § 477, Oct. 7, 1998, 112 Stat. 1731; Pub. L. 109–171, title VIII, § 8018(a), Feb. 8, 2006, 120 Stat. 174; Pub. L. 110–84, title VI, § 602(a), Sept. 27, 2007, 121 Stat. 804; Pub. L. 110–234, title IV, § 4002(b)(1)(A), (B), (2)(N), May 22, 2008, 122 Stat. 1095–1097; Pub. L. 110–246, § 4(a), title IV, § 4002(b)(1)(A), (B), (2)(N), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 111–39, title IV, § 406(a)(4), July 1, 2009, 123 Stat. 1948; Pub. L. 112–74, div. F, title III, § 309(b), Dec. 23, 2011, 125 Stat. 1100.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(2)(A), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XVI of the Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (d)(2)(B), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(2)(C), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2011—Subsec. (c)(1)(B). Pub. L. 112–74, § 309(b)(1), substituted “\$23,000” for “\$30,000”.

Subsec. (c)(2)(B). Pub. L. 112–74, § 309(b)(2), substituted “\$23,000” for “\$30,000”.

2009—Subsec. (b)(1)(A)(i)(III). Pub. L. 111–39, § 406(a)(4)(A)(i), amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: “1 of whom is a dislocated worker; or”.

Subsec. (b)(1)(B)(i)(III). Pub. L. 111–39, § 406(a)(4)(A)(ii), amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: “1 of whom is a dislocated worker; or”.

Subsec. (c)(1)(A)(iii). Pub. L. 111–39, § 406(a)(4)(B)(i), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “1 of whom is a dislocated worker; or”.

Subsec. (c)(2)(A)(iii). Pub. L. 111–39, § 406(a)(4)(B)(ii), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “1 of whom is a dislocated worker; or”.

2008—Subsec. (d)(2). Pub. L. 110–246, § 4002(b)(1)(A), (B), (2)(N), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2007—Subsec. (b)(1)(A)(i), (B)(i). Pub. L. 110–84, § 602(a)(1), added subcl. (III), redesignated former subcl. (III) as (IV), and, in subcl. (IV), substituted “24-month” for “12-month”.

Subsec. (c). Pub. L. 110–84, § 602(a)(2)(C), inserted at end of concluding provisions “The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 1087rr(f) of this title.”

Subsec. (c)(1)(A). Pub. L. 110–84, § 602(a)(2)(A)(i), added cl. (iii), redesignated former cl. (iii) as (iv), and, in cl. (iv), substituted “24-month” for “12-month”.

Subsec. (c)(1)(B). Pub. L. 110–84, § 602(a)(2)(A)(ii), substituted “\$30,000” for “\$20,000”.

Subsec. (c)(2)(A). Pub. L. 110–84, § 602(a)(2)(B)(i), added cl. (iii), redesignated former cl. (iii) as (iv), and, in cl. (iv), substituted “24-month” for “12-month”.

Subsec. (c)(2)(B). Pub. L. 110–84, § 602(a)(2)(B)(ii), substituted “\$30,000” for “\$20,000”.

Subsec. (d). Pub. L. 110–84, § 602(a)(3), substituted “Definitions” for “Definition of means-tested Federal benefit program” in heading, added par. (1), designated

existing provisions as par. (2) and substituted “The term” for “In this section, the term” in introductory provisions, redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (2), and realigned margins.

2006—Subsec. (b)(1)(A)(i). Pub. L. 109-171, § 8018(a)(1)(A)(i), added cl. (i) and struck out former cl. (i) which read as follows: “the student’s parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and”.

Subsec. (b)(1)(B)(i). Pub. L. 109-171, § 8018(a)(1)(A)(ii), added cl. (i) and struck out former cl. (i) which read as follows: “the student (and the student’s spouse, if any) files or is eligible to file a form described in paragraph (3) or certifies that the student (and the student’s spouse, if any) is not required to file an income tax return; and”.

Subsec. (b)(3). Pub. L. 109-171, § 8018(a)(1)(B), in introductory provisions substituted “In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files” for “A student or family files a form described in this subsection, or subsection (c) of this section, as the case may be, if the student or family, respectively, files”.

Subsec. (c)(1)(A). Pub. L. 109-171, § 8018(a)(2)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “the student’s parents file, or are eligible to file, a form described in subsection (b)(3) of this section, or certify that the parents are not required to file an income tax return and the student files, or is eligible to file, such a form, or certifies that the student is not required to file an income tax return; and”.

Subsec. (c)(1)(B). Pub. L. 109-171, § 8018(a)(2)(A)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: “the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit; or”.

Subsec. (c)(2)(A). Pub. L. 109-171, § 8018(a)(2)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “the student (and the student’s spouse, if any) files, or is eligible to file, a form described in subsection (b)(3) of this section, or certifies that the student (and the student’s spouse, if any) is not required to file an income tax return; and”.

Subsec. (c)(2)(B). Pub. L. 109-171, § 8018(a)(2)(B)(ii), added subpar. (B) and struck out former subpar. (B) which read as follows: “the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit.”

Subsec. (d). Pub. L. 109-171, § 8018(a)(3), added subsec. (d).

1998—Subsec. (b)(3). Pub. L. 105-244, § 477(1)(A), substituted “this subsection, or subsection (c) of this section, as the case may be,” for “this paragraph” in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 105-244, § 477(1)(B), struck out “or” at end.

Subsec. (b)(3)(B), (C). Pub. L. 105-244, § 477(1)(C), (D), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(1)(A). Pub. L. 105-244, § 477(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the student’s parents were not required to file an income tax return under section 6012(a)(1) of title 26; and”.

Subsec. (c)(2)(A). Pub. L. 105-244, § 477(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A)

read as follows: “the student (and the student’s spouse, if any) was not required to file an income tax return under section 6012(a)(1) of title 26; and”.

1993—Subsec. (a)(1). Pub. L. 103-208, § 2(g)(10), inserted “of” after “(c)”.

Subsec. (b)(1)(B)(i). Pub. L. 103-208, § 2(g)(11), inserted “(and the student’s spouse, if any)” after “student” in two places and struck out “such” before “an income tax return”.

Subsec. (b)(2). Pub. L. 103-208, § 2(g)(12), (13), substituted “six elements” for “five elements” in introductory provisions and a comma for semicolon in subpar. (E).

Subsec. (b)(3)(A). Pub. L. 103-208, § 2(g)(14)(A), inserted “(including any prepared or electronic version of such form)” before “required”.

Subsec. (b)(3)(B). Pub. L. 103-208, § 2(g)(14)(B), inserted “(including any prepared or electronic version of such return)” before “required”.

Subsec. (c)(1)(A). Pub. L. 103-208, § 2(g)(15)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the student’s parents did not file, and were not required to file, a form 1040 required pursuant to title 26; and”.

Subsec. (c)(1)(B). Pub. L. 103-208, § 2(g)(15)(C), inserted “in 1992 or the current year, whichever is higher,” after “that may be earned”.

Subsec. (c)(2)(A). Pub. L. 103-208, § 2(g)(15)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the student (and the student’s spouse, if any) did not file, and was not required to file, a form 1040 required pursuant to title 26; and”.

Subsec. (c)(2)(B). Pub. L. 103-208, § 2(g)(15)(C), inserted “in 1992 or the current year, whichever is higher,” after “that may be earned”.

1992—Pub. L. 102-325 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), analysis applicable to all title IV programs; in subsec. (b), elements in tests; and in subsec. (c), simplified application form.

1991—Subsec. (a). Pub. L. 102-26 inserted before period at end “, or who file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico or who are not required to file pursuant to that tax code”.

1988—Subsec. (a). Pub. L. 100-369 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100-50, § 14(23), substituted “subsection (b) of this section” for “paragraph (2)”, “families (1) who” for “families which”, and “and (2) who file a form 1040A or 1040EZ pursuant to title 26, or are not required to file pursuant to such title” for “and which file a form 1040A pursuant to title 26”.

Subsec. (b)(2). Pub. L. 100-50, § 14(24)(A), struck out “and State” after “Federal”.

Subsec. (b)(6). Pub. L. 100-50, § 14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100-50, § 14(25), added subsec. (c).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by of Pub. L. 112-74 effective July 1, 2012, see section 309(g) of Pub. L. 112-74, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted as part of amendments made by section 602(a) of Pub. L. 110-84 and effective July 1, 2009, see section 406(b)(2) of Pub. L. 111-39, set out as a note under section 1087mm of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(N) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title VI, §602(b), Sept. 27, 2007, 121 Stat. 805, provided that: “The amendments made by this section [amending this section] shall be effective on July 1, 2009.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EVALUATION OF SIMPLIFIED NEEDS TEST

Pub. L. 109-171, title VIII, §8018(b), Feb. 8, 2006, 120 Stat. 175, provided that:

“(1) **ELIGIBILITY GUIDELINES.**—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

“(2) **MEANS-TESTED FEDERAL BENEFIT PROGRAM.**—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)))] as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).”

§ 1087tt. Discretion of student financial aid administrators

(a) In general

Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the

contributions expected in the absence of special circumstances. Special circumstances may include tuition expenses at an elementary or secondary school, medical, dental, or nursing home expenses not covered by insurance, unusually high child care or dependent care costs, recent unemployment of a family member or an independent student, a student or family member who is a dislocated worker (as defined in section 2801 of title 29), the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42), or other changes in a family's income, a family's assets, or a student's status. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42, or (2) to offer a dependent student financial assistance under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) Adjustments to assets taken into account

A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) of this section if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) Refusal or adjustment of loan certifications

On a case-by-case basis, an eligible institution may refuse to certify a statement that permits a student to receive a loan under part B or C of this subchapter, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented

and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

(Pub. L. 89-329, title IV, § 479A, as added Pub. L. 100-50, § 14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101-239, title II, § 2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103-208, § 2(g)(16), Dec. 20, 1993, 107 Stat. 2473; Pub. L. 105-244, title IV, § 478, Oct. 7, 1998, 112 Stat. 1731; Pub. L. 110-84, title VI, § 603(a), Sept. 27, 2007, 121 Stat. 805; Pub. L. 110-315, title IV, § 472(a), Aug. 14, 2008, 122 Stat. 3269.)

PRIOR PROVISIONS

A prior section 1087tt, Pub. L. 89-329, title IV, § 479A, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100-50.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315 substituted “medical, dental, or nursing home expenses” for “medical or dental expenses”, inserted “or dependent care” after “child care” and “student or” before “family member who is a dislocated worker”, and substituted “In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42, or (2) to offer a dependent student financial assistance under section 1078-8 of this title or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 1090 of this title if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form.” for “In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42.”

2007—Subsec. (a). Pub. L. 110-84, in third sentence, substituted “family member or an independent student, a family member who is a dislocated worker (as defined in section 2801 of title 29), the number of parents” for “family member, the number of parents” and inserted “a change in housing status that results in an individual being homeless (as defined in section 11302 of title 42),” after “under section 1094 of this title.”

1998—Subsec. (a). Pub. L. 105-244, § 478(1), inserted after second sentence “Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family’s income, a family’s assets, or a student’s status.”

Subsec. (c). Pub. L. 105-244, § 478(2), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to student financial aid administrators making adjustments for special circumstances.

1993—Subsec. (c). Pub. L. 103-208 added subsec. (c).

1992—Pub. L. 102-325 amended section generally, revising and restating provisions of subsecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101-239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title VI, § 603(b), Sept. 27, 2007, 121 Stat. 806, as amended by Pub. L. 110-315, title IV, § 472(b), Aug. 14, 2008, 122 Stat. 3270, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of the Higher Education Opportunity Act [Aug. 14, 2008].”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087uu. Disregard of student aid in other Federal programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89-329, title IV, § 479B, as added Pub. L. 100-50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89-329, title IV, § 479B, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986,

100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100-50.

AMENDMENTS

1992—Pub. L. 102-325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99-498, as amended, set out as a note under section 1087kk of this title.

§ 1087uu-1. Native American students

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of \$2,000 or less per individual payment received by the student (and spouse) and student's parents under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the “Per Capita Act”) or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et seq.).

(Pub. L. 89-329, title IV, § 479C, as added Pub. L. 100-50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 606; Pub. L. 111-39, title IV, § 406(a)(5), July 1, 2009, 123 Stat. 1949.)

REFERENCES IN TEXT

Public Law 98-64, referred to in par. (1), is Pub. L. 98-64, Aug. 2, 1983, 97 Stat. 365, commonly known as the Per Capita Act, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Judgment Funds Use or Distribution Act, referred to in par. (1), is Pub. L. 93-134, Oct. 19, 1973, 87 Stat. 466, which is classified generally to chapter 16 (§ 1401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see section 1401(c) of Title 25 and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Maine Indian Claims Settlement Act of 1980, referred to in par. (2), is Pub. L. 96-420, Oct. 10, 1980, 94

Stat. 1785, which is classified generally to subchapter II (§ 1721 et seq.) of chapter 19 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1721 of Title 25 and Tables.

AMENDMENTS

2009—Par. (1). Pub. L. 111-39, § 406(a)(5)(A), substituted “under Public Law 98-64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the ‘Per Capita Act’) or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and” for “under the Per Capita Act or the Distribution of Judgment Funds Act; and”.

Par. (2). Pub. L. 111-39, § 406(a)(5)(B), substituted “Alaska” for “Alaskan” and inserted “(43 U.S.C. 1601 et seq.)” after “Native Claims Settlement Act” and “of 1980 (25 U.S.C. 1721 et seq.)” after “Maine Indian Claims Settlement Act”.

1992—Pub. L. 102-325 amended section generally, re-enacting provisions without change.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087vv. Definitions

As used in this part:

(a) Total income

(1)(A) Except as provided in subparagraph (B) and paragraph (2), the term “total income” is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e) of this section).

(B) Notwithstanding section 1087rr(a) of this title, the Secretary may provide for the use of data from the second preceding tax year when and to the extent necessary to carry out the simplification of applications (including simplification for a subset of applications) used for the estimation and determination of financial aid eligibility. Such simplification may include the sharing of data between the Internal Revenue Service and the Department, pursuant to the consent of the taxpayer.

(2) No portion of any student financial assistance received from any program by an individual, no portion of veterans' education benefits received by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), no portion of any tax credit taken under section 25A of title 26, and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax, shall be included as income or assets in the computation of expected

family contribution for any program funded in whole or in part under this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Untaxed income and benefits

(1) The term “untaxed income and benefits” means—

- (A) child support received;
- (B) workman’s compensation;
- (C) veteran’s benefits such as death pension, dependency, and indemnity compensation, but excluding veterans’ education benefits as defined in subsection (c);
- (D) interest on tax-free bonds;
- (E) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits), except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37 received by the parents, in the case of a dependent student, or the student or student’s spouse, in the case of an independent student, shall be excluded;
- (F) cash support or any money paid on the student’s behalf, except, for dependent students, funds provided by the student’s parents;
- (G) untaxed portion of pensions;
- (H) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and
- (I) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, or railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(2) The term “untaxed income and benefits” shall not include—

- (A) the amount of additional child tax credit claimed for Federal income tax purposes;
- (B) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and aid to dependent children;
- (C) the amount of earned income credit claimed for Federal income tax purposes;
- (D) the amount of credit for Federal tax on special fuels claimed for Federal income tax purposes;
- (E) the amount of foreign income excluded for purposes of Federal income taxes; or
- (F) untaxed social security benefits.

(c) Veteran and veterans’ education benefits

(1) The term “veteran” means any individual who—

- (A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and
- (B) was released under a condition other than dishonorable.

(2) The term “veterans’ education benefits” means veterans’ benefits the student will receive during the award year, including but not limited to benefits under the following provisions of law:

- (A) Chapter 103 of title 10 (Senior Reserve Officers’ Training Corps).

(B) Chapter 106A of title 10 (Educational Assistance for Persons Enlisting for Active Duty).

(C) Chapter 1606 of title 10 (Selected Reserve Educational Assistance Program).

(D) Chapter 1607 of title 10 (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations).

(E) Chapter 30 of title 38 (All-Volunteer Force Educational Assistance Program, also known as the “Montgomery GI Bill—active duty”).

(F) Chapter 31 of title 38 (Training and Rehabilitation for Veterans with Service-Connected Disabilities).

(G) Chapter 32 of title 38 (Post-Vietnam Era Veterans’ Educational Assistance Program).

(H) Chapter 33 of title 38 (Post-9/11 Educational Assistance).

(I) Chapter 35 of title 38 (Survivors’ and Dependents’ Educational Assistance Program).

(J) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program).

(K) Section 156(b) of the “Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes” (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as “Quayle benefits”).

(L) The provisions of chapter 3 of title 37, related to subsistence allowances for members of the Reserve Officers Training Corps.

(d) Independent student

(1) Definition

The term “independent”, when used with respect to a student, means any individual who—

(A) is 24 years of age or older by December 31 of the award year;

(B) is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;

(C) is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence;

(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of this section) or is currently serving on active duty in the Armed Forces for other than training purposes;

(E) is a graduate or professional student;

(F) is a married individual;

(G) has legal dependents other than a spouse;

(H) has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a]), or as unaccompanied, at risk of homelessness, and self-supporting, by—

- (i) a local educational agency homeless liaison, designated pursuant to section

722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11432(g)(1)(J)(ii)];

(ii) the director of a program funded under the Runaway and Homeless Youth Act [42 U.S.C. 5701 et seq.] or a designee of the director;

(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11371 et seq.] (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

(I) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(2) Simplifying the dependency override process

A financial aid administrator may make a determination of independence under paragraph (1)(I) based upon a documented determination of independence that was previously made by another financial aid administrator under such paragraph in the same award year.

(e) Excludable income

The term “excludable income” means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of subchapter I of chapter 34 of title 42;

(2) any income earned from work under a cooperative education program offered by an institution of higher education;

(3) any living allowance received by a participant in a program established under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(4) child support payments made by the student or parent;

(5) payments made and services provided under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.]; and

(6) special combat pay.

(f) Assets

(1) The term “assets” means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, qualified education benefits (except as provided in paragraph (3)), and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this subchapter and part C of subchapter I of chapter 34 of title 42, other than for subpart 4 of part A of this subchapter, the term “assets” shall not include the net value of—

(A) the family’s principal place of residence;

(B) a family farm on which the family resides; or

(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.

(3) A qualified education benefit shall be considered an asset of—

(A) the student if the student is an independent student; or

(B) the parent if the student is a dependent student, regardless of whether the owner of the account is the student or the parent.

(4) In determining the value of assets in a determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than for subpart 4 of part A of this subchapter), the value of a qualified education benefit shall be—

(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

(5) In this subsection:

(A) The term “qualified education benefit” means—

(i) a qualified tuition program (as defined in section 529(b)(1)(A) of title 26) or other prepaid tuition plan offered by a State; and

(ii) a Coverdell education savings account (as defined in section 530(b)(1) of title 26).

(B) The term “qualified higher education expenses” has the meaning given the term in section 529(e) of title 26.

(g) Net assets

The term “net assets” means the current market value at the time of application of the assets (as defined in subsection (f) of this section), minus the outstanding liabilities or indebtedness against the assets.

(h) Treatment of income taxes paid to other jurisdictions

(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to title 26, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) Current balance

The term “current balance of checking and savings accounts” does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) Other financial assistance

(1) For purposes of determining a student’s eligibility for funds under this subchapter and part

C of subchapter I of chapter 34 of title 42, estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), but excluding veterans' education benefits as defined in subsection (c).

(2) Notwithstanding paragraph (1), a tax credit taken under section 25A of title 26, or a distribution that is not includable in gross income under section 529 of such title, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such title, shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(3) Notwithstanding paragraph (1) and section 1087ll of this title, assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.

(4) Notwithstanding paragraph (1), special combat pay shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(k) Dependents

(1) Except as otherwise provided, the term "dependent of the parent" means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term "dependent of the student" means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(l) Family size

(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried,

or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) Business assets

The term "business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(n) Special combat pay

The term "special combat pay" means pay received by a member of the Armed Forces because of exposure to a hazardous situation.

(Pub. L. 89-329, title IV, § 480, as added Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100-50, § 14(28), June 3, 1987, 101 Stat. 353; Pub. L. 100-369, § 7(b), July 18, 1988, 102 Stat. 837; Pub. L. 101-610, title I, § 185(3), (4), Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102-325, title IV, § 471(a), July 23, 1992, 106 Stat. 606; Pub. L. 103-82, title I, § 102(c)(4), (5), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103-208, § 2(g)(17)-(20), Dec. 20, 1993, 107 Stat. 2474; Pub. L. 104-193, title I, § 110(h)(2), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 105-78, title VI, § 609(j), (k), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105-244, title IV, § 479, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(15)(B), (f)(12)(B)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-421, 2681-431; Pub. L. 109-171, title VIII, § 8019, Feb. 8, 2006, 120 Stat. 176; Pub. L. 110-84, title VI, § 604(a), Sept. 27, 2007, 121 Stat. 806; Pub. L. 110-153, § 1(a), Dec. 21, 2007, 121 Stat. 1824; Pub. L. 110-315, title IV, § 473(a)-(e), Aug. 14, 2008, 122 Stat. 3270, 3271; Pub. L. 111-39, title IV, § 406(a)(6)-(8), July 1, 2009, 123 Stat. 1949, 1950.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsecs. (a)(2), (e)(3), and (j)(1), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act enacted subchapter I (§12511 et seq.) of chapter 129 of Title 42 and amended this section and section 1070a-6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (b)(1)(I), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Social Security Act, referred to in subsecs. (b)(2)(B) and (e)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts A and E of title IV of the Act are classified generally to parts A (§601 et seq.) and E (§670 et seq.)

of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 903 of the Department of Defense Authorization Act, 1981, referred to in subsec. (c)(2)(J), is section 903 of Pub. L. 96-342, which is set out as a note under section 2141 of Title 10, Armed Forces.

Section 156(b) of the “Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes”, referred to in subsec. (c)(2)(K), is section 156(b) of Pub. L. 97-377, which is set out as a note under section 402 of Title 42, The Public Health and Welfare.

The Runaway and Homeless Youth Act, referred to in subsec. (d)(1)(H)(ii), is title III of Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1129, which is classified generally to subchapter III (§5701 et seq.) of chapter 72 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(1)(H)(iii), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Subtitle B of title IV of the Act is classified generally to part B (§11371 et seq.) of subchapter IV of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

CODIFICATION

Amendment by section 2(g)(19) of Pub. L. 103-208 (which was effective as if included in Pub. L. 102-325) was executed to this section as amended by Pub. L. 102-325 and Pub. L. 103-82, to reflect the probable intent of Congress.

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111-39, §406(a)(6), substituted “12511” for “12571”.

Subsec. (c)(2). Pub. L. 111-39, §406(a)(7), substituted “benefits under the following provisions of law” for “the following” in introductory provisions, added subpars. (A) to (L), and struck out former subpars. (A) to (J) which listed, respectively, the following provisions of law: title 10, chapter 2; title 10, chapter 106; title 10, chapter 107; title 37, chapter 2; title 38, chapter 30; title 38, chapter 31; title 38, chapter 32; title 38, chapter 35; Public Law 97-376, section 156; and Public Law 96-342, section 903.

Subsec. (j)(1). Pub. L. 111-39, §406(a)(8), substituted “12511” for “12571”.

2008—Subsec. (a)(1). Pub. L. 110-315, §473(a)(1), designated existing provisions as subpar. (A), inserted “subparagraph (B) and” after “provided in”, and added subpar. (B).

Subsec. (a)(2). Pub. L. 110-315, §473(a)(2), inserted “no portion of veterans’ education benefits received by an individual,” after “any program by an individual.”

Subsec. (b)(1)(E). Pub. L. 110-315, §473(b), inserted “, except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37 received by the parents, in the case of a dependent student, or the student or student’s spouse, in the case of an independent student, shall be excluded” before semicolon.

Subsec. (d)(1)(B), (C). Pub. L. 110-315, §473(c), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

“(B) is an orphan, in foster care, or a ward of the court, at any time when the individual is 13 years of age or older;

“(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence.”

Subsec. (e)(2) to (6). Pub. L. 110-315, §473(d), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

Subsec. (j)(1). Pub. L. 110-315, §473(e), struck out “veterans’ education benefits as defined in subsection (c) of

this section, and” before “national service educational awards” and inserted “, but excluding veterans’ education benefits as defined in subsection (c)” before period at end.

2007—Subsec. (a)(2). Pub. L. 110-84, §604(a)(1), substituted “no portion of any” for “and no portion of any” and inserted “and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax,” after “section 25A of title 26.”

Subsec. (b). Pub. L. 110-84, §604(a)(2), added subsec. (b) and struck out former subsec. (b) which defined “untaxed income and benefits”.

Subsec. (b)(2). Pub. L. 110-153 added par. (2) and struck out former par. (2) which read as follows: “The term ‘untaxed income and benefits’ shall not include the amount of additional child tax credit claimed for Federal income tax purposes.”

Subsec. (d). Pub. L. 110-84, §604(a)(3)(A), (B), designated existing provisions as par. (1), inserted par. heading, redesignated former pars. (1), (2), (3) to (6), and (7) as subpars. (A), (B), (D) to (G), and (I), respectively, and realigned margins.

Subsec. (d)(1)(B), (C). Pub. L. 110-84, §604(a)(3)(C), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;”

Subsec. (d)(1)(H). Pub. L. 110-84, §604(a)(3)(D), (E), added subpar. (H).

Subsec. (d)(2). Pub. L. 110-84, §604(a)(3)(F), added par. (2).

Subsec. (e)(5). Pub. L. 110-84, §604(a)(4), added par. (5).
Subsec. (f)(3). Pub. L. 110-84, §604(a)(5), added par. (3) and struck out former par. (3) which read as follows: “A qualified education benefit shall not be considered an asset of a student for purposes of section 108700 of this title.”

Subsec. (j)(2). Pub. L. 110-84, §604(a)(6)(A), inserted “, or a distribution that is not includable in gross income under section 529 of such title, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such title,” after “title 26”.

Subsec. (j)(4). Pub. L. 110-84, §604(a)(6)(B), added par. (4).

Subsec. (n). Pub. L. 110-84, §604(a)(7), added subsec. (n).

2006—Subsec. (d)(3). Pub. L. 109-171, §8019(a), inserted “or is currently serving on active duty in the Armed Forces for other than training purposes” before semicolon at end.

Subsec. (f)(1). Pub. L. 109-171, §8019(b), inserted “qualified education benefits (except as provided in paragraph (3))” after “tax shelters.”

Subsec. (f)(2)(C). Pub. L. 109-171, §8019(c), added subpar. (C).

Subsec. (f)(3) to (5). Pub. L. 109-171, §8019(d), added pars. (3) to (5).

Subsec. (j). Pub. L. 109-171, §8019(e)(1), struck out “; tuition prepayment plans” at end of heading.

Subsec. (j)(2), (3). Pub. L. 109-171, §8019(e)(2)–(4), struck out par. (2), redesignated par. (3) as (2), and added par. (3). Prior to amendment, par. (2) read as follows:

“(2)(A) Except as provided in subparagraph (B), for purposes of determining a student’s eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, tuition prepayment plans shall reduce the cost of attendance (as determined under section 108700 of this title) by the amount of the prepayment, and shall not be considered estimated financial assistance.

“(B) If the institutional expense covered by the prepayment must be part of the student’s cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.”

1998—Subsec. (b)(14). Pub. L. 105-277, §101(f) [title VIII, §405(f)(12)(B)], struck out “Job Training Partnership Act noneducational benefits or” after “railroad retirement benefits, or”.

Pub. L. 105-277, §101(f) [title VIII, §405(d)(15)(B)], substituted “Job Training Partnership Act noneducational benefits or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998” for “Job Training Partnership Act noneducational benefits”.

Subsec. (j)(1). Pub. L. 105-244, §479(1), inserted before period at end “, and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990”.

Subsec. (j)(3), (4). Pub. L. 105-244, §479(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 shall not be treated as financial assistance for purposes of section 1087kk(3) of this title.”

1997—Subsec. (a)(2). Pub. L. 105-78, §609(j), substituted “program by an individual, no” for “program by an individual, and no” and inserted “and no portion of any tax credit taken under section 25A of title 26,” before “shall be included”.

Subsec. (j)(4). Pub. L. 105-78, §609(k), added par. (4).

1996—Subsec. (b)(2). Pub. L. 104-193 substituted “assistance under a State program funded” for “aid to families with dependent children under a State plan approved”.

1993—Subsec. (a)(2). Pub. L. 103-82, §102(c)(4), inserted “, and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990,” after “by an individual”.

Subsec. (c)(2). Pub. L. 103-208, §2(g)(17), made technical amendment to references to titles of the United States Code in subpars. (A) to (H).

Subsec. (d)(2). Pub. L. 103-208, §2(g)(18), inserted before semicolon “or was a ward of the court until the individual reached the age of 18”.

Subsec. (j)(3). Pub. L. 103-208, §2(g)(19), realigned margin. See Codification note above.

Pub. L. 103-82, §102(c)(5), added par. (3).

Subsecs. (k) to (m). Pub. L. 103-208, §2(g)(20), added subsecs. (k) to (m).

1992—Pub. L. 102-325 amended section generally, substituting subsecs. (a) to (j) for former subsecs. (a) to (i).

1990—Subsec. (d)(2)(F). Pub. L. 101-610, §185(4), inserted “and living allowances as a result of participation in a program established under the National and Community Service Act of 1990” after “other than parents”.

Subsec. (f)(3). Pub. L. 101-610, §185(3), added par. (3).

1988—Subsec. (i). Pub. L. 100-369 added subsec. (i).

1987—Subsec. (a)(1). Pub. L. 100-50, §14(28)(A), (B), substituted “paragraphs (2) through (4)” for “paragraphs (2) and (3)” and inserted “minus excludable income (as defined in subsection (f) of this section)” before period at end.

Subsec. (a)(2). Pub. L. 100-50, §14(28)(C), added par. (2) and struck out former par. (2) which read as follows: “The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42 for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.”

Subsec. (a)(4). Pub. L. 100-50, §14(28)(D), added par. (4).

Subsecs. (b), (c). Pub. L. 100-50, §14(28)(E), substituted subsec. (b) consisting of pars. (1) to (14) for former subsec. (b) consisting of pars. (1) to (19), and substituted subsec. (c) consisting of pars. (1) to (14) for former subsec. (c) consisting of pars. (1) to (16).

Subsec. (d)(2)(F). Pub. L. 100-50, §14(28)(F), substituted “annual total resources (including all sources of resources other than parents)” for “an annual total income”.

Subsecs. (f) to (h). Pub. L. 100-50, §14(28)(G), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, §473(f), Aug. 14, 2008, 122 Stat. 3271, as amended by Pub. L. 111-39, title IV, §406(c), July 1, 2009, 123 Stat. 1950, provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 2010, except that the amendments made in subsection (e) [amending this section] shall take effect on July 1, 2009.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-153, §1(b), Dec. 21, 2007, 121 Stat. 1824, provided that: “This section [amending this section] and the amendment made by this section shall take effect on July 1, 2009.”

Pub. L. 110-84, title VI, §604(b), Sept. 27, 2007, 121 Stat. 808, provided that: “The amendments made by this section [amending this section] shall be effective on July 1, 2009.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-244 effective Oct. 7, 1998, see section 480A of Pub. L. 105-244, set out as a note under section 1087kk of this title.

Amendment by section 101(f) [title VIII, §405(d)(15)(B)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(12)(B)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102-325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEFINITION OF “INDEPENDENT STUDENT”; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Section 406(b)(5), formerly section 406(b)(4), of Pub. L. 99-498, renumbered Pub. L. 100-50, § 22(e)(2), June 3, 1987, 101 Stat. 361, provided that: “The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].”

[References to subpart 2 of part A of title IV of Pub. L. 89-329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102-325, set out as a note under section 1070a-11 of this title.]

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89-329 by Pub. L. 90-575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99-498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. For codification purposes, the letter designation of this part was originally changed from “E” to “D.” It was subsequently rechanged to “E” when this part was redesignated “F”, and then to “F” when this part was redesignated “G”. See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89-329, title IV, §§ 461 to 464 and 469, as added by Pub. L. 90-575, title I, §§ 151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92-318, June 23, 1972, 86 Stat. 235; Pub. L. 94-482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95-43, June 15, 1977, 91 Stat. 213; Pub. L. 95-180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95-566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96-49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96-374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98-79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part’s provisions by Pub. L. 99-498.

§ 1088. Definitions

(a) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term “award year” shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2)(A) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term “academic year” shall—

(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

(II) 900 clock hours in a course of study that measures its program length in clock hours.

(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree and that measures program length in credit hours or clock hours.

(b) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term “eligible program” means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this subchapter if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph,